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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/623,349	07/21/2003	Kennith L. Peterson	PTRN-102	5029
21272	7590	09/23/2004		
MORLAND C FISCHER 2030 MAIN ST SUITE 1050 IRVINE, CA 92614			EXAMINER ARYANPOUR, MITRA	
			ART UNIT	PAPER NUMBER
			3711	

DATE MAILED: 09/23/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/623,349

Applicant(s)

PETERSON, KENNITH L.

Examiner

Mitra Aryanpour

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 21 July 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-11 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-9 and 11 is/are rejected.
- 7) ☒ Claim(s) 10 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 21 July 2003.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

2. Claims 1-8 and 11 are rejected under 35 U.S.C. 102(e) as being anticipated by Bixler et al (6,550,491).

Regarding claim 1, Bixler et al discloses a collapsible sports enclosure within which a ball can be hit, kicked or thrown without subjecting onlookers to possible injury, said collapsible enclosure (10; see column 1, lines 5-10) comprising: a support base (lower articulating arms 34 and 62 positioned in between the upright members 12-14 and 14-16) having at least first and second sides that are spaced from one another (it should be noted that only one side of the cage or enclosure is shown); a support frame (upright members 12, 14, 16, 18, 20 and 22) coupled (pivot point 50 and 52) to the first and second sides of said support base so as to be movable relative to said support base from a collapsed position located between the first and second sides of said support base when the sports enclosure is not in use to a raised position projecting upwardly from said first and second sides when the sports enclosure is in use (see figure 2); and a protective netting (76) carried by said support frame to lifted above the first and second sides of said support base when said support frame is moved to the raised position and folded between

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the first and second sides when said support frame is moved to the collapsed position (see column 5, lines 10-17).

Regarding claim 2, Bixler et al shows the support frame (upright members 12, 14, 16, 18, 20 and 22) is pivotally coupled to the first and second sides of said support base (lower articulating arms 34 and 62 positioned in between the upright members 12-14 and 14-16 respectively) so as to be rotatable relative to said support base from the collapsed position to the raised position (pivot point 50 and 52; see figure 2).

Regarding claim 3, Bixler et al shows the support frame includes a plurality of U-shaped frame members that are pivotally connected to said support base (lower articulating arms 34 and 62 positioned in between the upright members 12-14 and 14-16) and rotatable relative thereto between said collapsed and raised positions, each of said U-shaped frame members lying end-to-end one another between the first and second sides of said support base at the collapsed position of said support frame and extending upwardly from said first and second sides in spaced alignment with one another in the raised position of said support frame (see figure 5; also column 5, lines 44-65).

Regarding claim 4, Bixler et al shows the netting (76) is attached to the plurality of U-shaped frame members of said support frame (upright members 12, 14, 16, 18, 20 and 22) so as to be lifted above the first and second sides of said support base (lower articulating arms 34 and 62 positioned in between the upright members 12-14 and 14-16) or folded between the first and second sides depending upon whether said U-shaped frame members are rotated to the raised position or to the collapsed position (see figure 4).

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Regarding claim 5, Bixler et al shows at least one coupling bar extending between successive ones of said plurality of U-shaped frame members for causing said plurality of frame members to be rotated in unison between said collapsed and raised positions (upper articulating arms 36 and 64 positioned in between the upright members 12-14 and 14-16 respectively; see figures 1 and 3).

Regarding claim 6, Bixler et al shows a cable (upper cable system 72 and lower cable system 74) tied to the plurality of U-shaped frame members of said support frame, said cable adapted to receive a pulling force, whereby to cause said U-shaped frame members to rotate from said collapsed position to said raised position, whereby said netting (76) is lifted above the first and second sides of the support base (see column 5, lines 10-17; see figure 3).

Regarding claim 7, Bixler et al shows a pull-up rail (upper articulating arms 36 and 64 positioned between the upright members 12-14 and 14-16 respectively) adapted to move vertically upward and downward relative to the first and second sides of said support base, said netting (76) attached to said pull-up rail such that said netting is lifted by said pull-up rail above said first and second sides at the same time that the plurality of U-shaped framed members of said support frame are rotated to the raised position, and said netting (76) being folded by said pull up rail between said first and second sides at the same time that said plurality of U-shaped frame members are rotated to said collapsed position (see column 4, lines 28-54 and column 5, lines 10-17).

Regarding claim 8, note the rejection of claim 6.

Regarding claim 11, note the rejection of claims 1 and 2.

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Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 9 and 10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bixler et al (6,550,491).

Regarding claim 9, Bixler does not disclose expressly the use of a winch to generate a pulling force to be applied to the cable. Lamberti et al shows a ball catching net apparatus, wherein the raising and lowering of the frame is accomplished through a winch assembly (72) having a pair of pulleys (76) and a pair of wind-up cables (78) connected to the pair of pulleys (76). In view of Lamberti et al it would have been obvious to include a winch assembly (72) for the portable structure of Bixler et al, the motivation being to extend and retract Bixler et al's portable structure more readily.

Allowable Subject Matter

5. Claim 10 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Conclusion

6. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Core; Karas; Tomer; Arzola; Litwhiler et al; Gates et al; Ross; Gorman; Boehner; Hardee et al.

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Mitra Aryanpour whose telephone number is 703-308-3550. The examiner can normally be reached on Monday - Friday 9:00 to 5:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Greg Vidovich can be reached on 703-308-1513. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

MA
20 August 2004



MITRA ARYANPOUR
PATENT EXAMINER